

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 21156**

Application **30613** of

V.A. Rodden Inc.  
c/o Bill Jackson  
P.O. Box 485  
Oakdale, CA 95561

filed on **April 23, 1997**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

**Permittee is hereby authorized to divert and use water as follows:**

1. Source of water

Source:  
**Union Slough**

Tributary to:  
**Dry Creek, thence Tuolumne River, thence San Joaquin River**

within the County of **Stanislaus**

2. Location of point of diversion

By California Coordinate System of 1927 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>POD A: North 426,259 feet and East 1,921,441 feet</b>	<b>SW ¼ of SW ¼</b>	<b>16</b>	<b>3S</b>	<b>11E</b>	<b>MD</b>

The point of diversion is shown on Points of Diversion Map dated November 14, 2001, filed with SWRCB, Division of Water Rights (Division).

3. Location of point of redirection

By California Coordinate System of 1927 in Zone 3	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>POD B; North 426,483 feet and East 1,922,587 feet</b>	<b>NE ¼ of SW ¼</b>	<b>16</b>	<b>3S</b>	<b>11E</b>	<b>MD</b>

The point of redirection is shown on Points of Diversion Map dated November 14, 2001, filed with the State Water Resources Control Board, Division of Water Rights.

4. Purpose of use	5. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Irrigation	NE ¼ of the SE ¼	09	3S	11E	MD	39.73
Irrigation	NW ¼ of the SE ¼	09	3S	11E	MD	30.14
Irrigation	SE ¼ of the SE ¼	09	3S	11E	MD	37.91
Irrigation	SW ¼ of the SE ¼	09	3S	11E	MD	34.25
Irrigation	NW ¼ of the SW ¼	10	3S	11E	MD	0.74
Irrigation	SW ¼ of the SW ¼	10	3S	11E	MD	19.54
Irrigation	NW ¼ of the NW ¼	15	3S	11E	MD	17.53
Irrigation	SW ¼ of the NW ¼	15	3S	11E	MD	0.17
Irrigation	NE ¼ of the NE ¼	16	3S	11E	MD	28.57
Irrigation	NW ¼ of the NE ¼	16	3S	11E	MD	29.48
Irrigation	SW ¼ of the NE ¼	16	3S	11E	MD	25.74
Irrigation	NE ¼ of the NW ¼	16	3S	11E	MD	33.15
Irrigation	NW ¼ of the NW ¼	16	3S	11E	MD	29.96
Irrigation	SE ¼ of the NW ¼	16	3S	11E	MD	27.01
Irrigation	SW ¼ of the NW ¼	16	3S	11E	MD	17.22
Irrigation	NE ¼ of the SE ¼	16	3S	11E	MD	17.93
Irrigation	NW ¼ of the SE ¼	16	3S	11E	MD	27.61
Irrigation	SE ¼ of the SE ¼	16	3S	11E	MD	9.49
Irrigation	SW ¼ of the SE ¼	16	3S	11E	MD	6.10
Irrigation	NE ¼ of the SW ¼	16	3S	11E	MD	19.99
Irrigation	NW ¼ of the SW ¼	16	3S	11E	MD	7.94
Irrigation	SE ¼ of the SW ¼	16	3S	11E	MD	19.54
Irrigation	SW ¼ of the SW ¼	16	3S	11E	MD	19.62
Irrigation	NW ¼ of the NW ¼	21	3S	11E	MD	0.73

The place of use is shown on a map dated November 14, 2001, filed with the Division.

*500.09 Acres*

Quantity:

The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **9.064 cubic feet per second** to be diverted from **January 1 to October 31** of each year. The maximum amount diverted under this permit shall not exceed **3,769.50** acre-feet per year.

(0000005A)

Complete Use:

Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2013.

(0000009)

Term 90:

This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated by order of the SWRCB, made after notice to interested parties and opportunity for hearing.

(0000090)

Term 91:

No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.

b. Supplemental Project water is defined as that water imported to the basin by the projects plus water released from Project storage, which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The SWRCB shall notify permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The SWRCB will advise permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

(0000091)

Term 93 Reduction of Diversion Season – San Joaquin River above Vernalis

No diversion is authorized by this permit under the following conditions: (1) when in order to maintain water quality in the San Joaquin River at Vernalis at a level of 500 parts per million (ppm) Total Dissolved Solids (TDS), the U.S. Bureau of Reclamation is releasing stored water from New Melones Reservoir or is curtailing the collection of water to storage, or (2) during any time of low flows when TDS levels at Vernalis exceed 500 ppm. These restrictions shall not apply when, in the judgment of the SWRCB, curtailment of diversion under this permit will not be effective in lowering the TDS at Vernalis, or when in the absence of the permittee's diversion, hydraulic continuity would not exist between the licensee's point of diversion and Vernalis. The SWRCB shall notify the permittee at any time curtailment of diversion is required under this term.

(0000093)

Return Flow Term:

When Term 91 is in effect, if the pump in Union Slough at POD A is used, the permittee must not divert any water under this permit that exceeds the amount of flow that returns into Pond 2 as a result of upstream irrigation on Rodden Ranch. To ensure that additional water is not diverted, the permittee must monitor the water flow in Union Slough at two measuring stations. The first measuring station, identified as MS1, will be established immediately downstream of the POD used in Pond 1 under the existing right (Application 11438). The second measuring station, identified as MS2, will be established immediately downstream of POD A located in Pond 2. When Term 91 is in effect, if any water is diverted at POD A, the permittee must ensure that the average daily flow at MS2 is greater than or equal to the average daily flow at MS1. The locations of POD A, Pond 1 and Pond 2 are shown on a Points of Diversion Map dated November 14, 2001, filed with the Division.

The permittee shall install and properly maintain flow meters equipped with recorders at measuring stations MS1 and MS2, satisfactory to the Chief of the Division of Water Rights, for the purpose of determining that diversions under this permit do not exceed the amount of agricultural return flows into Pond 2 originating from Rodden Ranch operations (i.e. when Term 91 is in effect, the flow at MS 2 must be higher or equal to the water flow at MS1). A year after the issuance of this permit, the permittee shall submit to the Chief of the Division of Water Rights photodocumentation demonstrating the establishment of measuring stations MS1

and MS2 for review and approval. The permittee shall also submit the recorded flowmeter readings at MS1 and MS2 to the SWRCB along with the annual progress reports.

Senior Rights Term:

The permittee does not acquire any right to diversion, storage or use of such water as may be released into Union Slough from time to time by the Oakdale Irrigation District. To the extent any such water is diverted, stored or used by the permittee, the permittee shall have no interest therein and shall not be entitled to rely upon such water. Under no circumstances will there be any obligation on the part of Oakdale Irrigation District to deliver water from its facilities on the Stanislaus River to Union Slough.

Wetland Ecological Integrity Term:

For protection of its ecological integrity, water levels in the artificial wetland (Pond 2) shall be maintained at full stage at all times. The full stage level is equal to the level of the crest of the outlet weir in Pond 2. The permittee shall install and properly maintain a staff gage equipped with a stage recorder in the wetland at Pond 2, satisfactory to the Chief of the Division of Water Rights, for the purpose of determining that a full stage is maintained at all times. The permittee shall supply the recorded staff gage readings to the SWRCB with the annual progress reports submitted to the Board by permittee. The SWRCB may at any time require the release of water that cannot be verified as having been collected to storage between January 1 and October 1 of each year. Pond 2 is shown on Points of Diversion Map dated November 14, 2001, filed with the Division.

No Storage Term:

Pond 3 shall be used as a control reservoir to regulate the flow and operation of the drip irrigation filter system at the POU and its use shall not constitute storage of diverted water in excess of 30 days. To ensure that Pond 3 shall not be used for storage, the monthly cumulative amount of water diverted at POD A that is pumped into Pond 3 shall equal the monthly cumulative amount of water rediverted at Point of Rediversion B within Pond 3 that is pumped into the drip irrigation filtering system. The permittee shall measure the cumulative amount of water pumped at POD A and at POD B. The permittee shall supply the recorded monthly cumulative flow readings at POD A and POD B to the SWRCB with the annual progress reports submitted to the Board by permittee.

Permit Term 215: Cultural Resources Protection:

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.  
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.  
(0000010)
- C. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.  
(0000011)

- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **JUL 10 2003**

STATE WATER RESOURCES CONTROL BOARD



Edward C. Anton, Chief  
Division of Water Rights